*HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

and

*HON'BLE SRI JUSTICE C.V.RAMULU

+Writ Appeal No.1169 of 2004

%6-8-2004

$MOHD.KHAJA PASHA … PETITIONER

and

#MOHD.ALI and others … RESPONDENTS

!For the Appellant : Mr.A.RAVINDER REDDY

^For the Respondents : Mr.V.Srinivas

<Gist

>Head Note

?Cases Referred: None

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1169 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 02/07/2004 in WP NO : 11116 OF 2004 on the file of the High Court.)

Between:

Mohd.Khaja Pasha, s/o Mohd.Buruddin,
r/o New Hafizpet, P.S.Serilingampally, R.R.District rep., by his GPA Mohd. Abdul Faheem Zakee, s/o Mohd.Abdul Nayeem Zakee, aged 35 yrs. r/o 5-8-323/1 to 5, Nampally, Hyderabad.

..... APPELLANT

AND

1 Mohd.Ali, s/o Shaik Madhar Sab,
r/o New Hafizpet, Serilingampally Mandal,
R.R.District.
2 Smt.Shainaz Begum, w/o Mohd.Ali,
r/o New Hafizpet, Serilingampally Mandal,
R.R.District.
3 Station House Officer, P.S.Chanda Nagar, Ranga Reddy District.
4 M.Prabhakar Reddy, S.I. Of Police, P.S.Serilingampally, R.R.District.
5 Shoukat, s/o Babu Miya,
r/o SRT Nagar, Borabanda, Erragadda, Hyderabad.

.....RESPONDENTS

Counsel for the Appellant:MR.A.RAVINDER REDDY

Counsel for Respondent Nos.1 and 2: Mr.V.Srinivas

Counsel for the Respondent No.3: GP FOR HOME

Counsel for the Respondent Nos.4 and 5: None appeared.

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

The first and second respondents are the writ petitioners. The appellant was arrayed as respondent No.3. Respondents 3 and 4 herein are the Station House Officer, P.S. Chanda Nagar and Sub Inspector of Police, P.S, Serilingampally, respectively and were arrayed as respondents 1 and 2 in the writ petition. Respondent No.5 was arrayed as respondent No.4 in the writ petition.

The appellant is aggrieved by the order dated 2nd July, 2004 disposing of the writ petition with direction to the Station House Officer and Sub Inspector of Police (respondent Nos.1 and 2 in the writ petition) not to interfere with the possession and enjoyment of the property of the writ petitioner bearing No.3-580/1 (Old No.3-31) in Plot Nos.23, 24, 34 and 35 in Survey No.80 situated at Subhash Chandra Bose Nagar Colony, New Hafizpet, Serilingampally Mandal, Ranga Reddy District.

The grievance of the appellant is that he was impleaded as third respondent in the writ petition and without any notice to him and without affording any opportunity of being heard, the impugned order was passed.

We have heard the counsel for the parties.

No doubt, while disposing of the writ petition, there is no direction issued against the appellant and the fifth respondent, who are arrayed as respondents 3 and 4 in the writ petition. But the purport of the impugned order directing respondents 1 and 2 in the writ petition not to interfere with the possession of the writ petitioner is on the basis of the finding recorded that the writ petitioner is in possession of the property and that respondents 3 and 4 in the writ petition are not in possession thereof. May be that there is an order of Civil Court granting injunction in favour of the writ petitioner and against the appellant and the fifth respondent herein. But disposal of the writ petition finally without even bothering to ensure service of notice of the petition to the parties who have been impleaded is nothing but violation of principles of natural justice. The impugned order definitely affects the rights of the appellant and the fifth respondent, who were arrayed as respondents 3 and 4 in the writ petition. Also may be, no direction is issued against them. But direction has been issued to the Station House Officer and the Sub Inspector of Police on the assumption that the writ petitioner is in possession of the property in dispute. There is no manner of doubt that this court while hearing writ petition, is entitled to dispose of the writ petition at the admission stage. But that would not entitle the court to pass any order, disposing of finally a writ petition, without caring to serve the parties

affected; more particularly, when they have been arrayed as parties to the writ petition.

The minimum that is required is to follow the basic tenets of law viz., complying with principles of natural justice. Failure to comply with such principles of natural justice would make the order a nullity.

Consequently, we allow the writ appeal and set aside the impugned order with direction that writ petition be decided after hearing the affected parties.

The matter will be listed before the learned single Judge on **16th August, 2004.**

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DEVINDER GUPTA, CJ

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C.V.RAMULU, J

6-8-2004

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To

1. Station House Officer, P.S.Chanda Nagar, Ranga Reddy District.

2. 2 CCs to the Govt. Pleader for Home, High Court Buildings, Hyderabad (OT)

3. 2 CD copies.